

# **Exhibit D**

**From:** Flath, Lara A (NYC)  
**Sent:** Friday, January 28, 2022 7:48 AM  
**To:** 'Jordan Goldstein'; Kasner, Jay B (NYC); Drylewski, Alexander C (NYC); Sheehan Davis, Abigail (NYC)  
**Cc:** Steven Bloch - Silver Golub & Teitell; 'Ian Sloss - Silver Golub & Teitell'; Mitchell Nobel  
**Subject:** RE: Underwood et al v. Coinbase Global, Inc., 1:21-cv-08353-PAE (S.D.N.Y.)

Counsel,

There is no emergency here that requires unnecessarily burdening the Court. What you are requesting would be an extraordinary disruption of routine customer communications. It is also an end-run around the agreed upon and court-ordered schedule. We are of course willing to discuss reasonable stipulations with respect to the new User Agreement and this Action. We can agree to not enforce any new dispute resolution provisions (to the extent there are new provisions) in the January 31, 2022 User Agreement as applied to this Action for the next 7 days so we have time to discuss what an agreeable stipulation might be. Please let us know when you are available for a call on Monday to begin those discussions.

In the meantime, we also want to make sure you have notified your clients of the existing fee-shifting provisions in our User Agreement including if Coinbase successfully moves to compel arbitration. We believe it is your obligation to have already done so.

Coinbase reserves all rights, including our right to seek costs for any unwarranted motion practice.

If you decide to move forward with this ill-advised motion, per Judge Engelmayer's March 19, 2020 Rules with respect to TROs, we are available for a telephone conference with the Court after 3 PM today, Monday afternoon, or Tuesday before 3 PM.

Please let us know,  
Lara

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**From:** Jordan Goldstein <jgoldstein@selendygay.com>  
**Sent:** Thursday, January 27, 2022 8:54 PM  
**To:** Kasner, Jay B (NYC) <Jay.Kasner@skadden.com>; Flath, Lara A (NYC) <Lara.Flath@skadden.com>; Drylewski, Alexander C (NYC) <Alexander.Drylewski@skadden.com>; Sheehan Davis, Abigail (NYC) <Abigail.Sheehan@skadden.com>  
**Cc:** Steven Bloch - Silver Golub & Teitell <sbloch@sgtlaw.com>; 'Ian Sloss - Silver Golub & Teitell' <ISloss@sgtlaw.com>; Mitchell Nobel <mnobel@selendygay.com>  
**Subject:** [Ext] Underwood et al v. Coinbase Global, Inc., 1:21-cv-08353-PAE (S.D.N.Y.)

Counsel:

We write on behalf of Plaintiffs Louis Oberlander, Henry Rodriguez, Christopher Underwood, and the putative Class in the above-referenced matter (the "Action"). As reflected in our letter from yesterday, Coinbase's attempts to impose procedurally and substantively unconscionable terms on the Lead Plaintiffs and members of the putative Class, including by interfering with the pending Action through conduct that violates New York Rule of Professional Conduct 4.2, is improper and threatens irreparable harm to Lead Plaintiffs and the putative Class. Accordingly, Plaintiffs will move for a preliminary injunction (i) prohibiting Coinbase from enforcing the proposed User Agreement dated January 25, 2022 (with an effective date of January 31, 2022) (the

“Proposed User Agreement”) with respect to its new dispute resolution provisions (including but not limited to Appendix 5) to the extent it would apply to the Action; (ii) prohibiting Coinbase from proposing further changes to the User Agreement to Plaintiffs and members of the putative Class, to the extent such changes would apply to the Action, without proceeding through Co-Lead Counsel; and (iii) prohibiting Coinbase from seeking to enforce the fee and cost shifting provisions in Paragraph 1.7 of Appendix 5 of the Proposed User Agreement, in the event it prevails on any motion to compel arbitration.

Further, because the Proposed User Agreement is scheduled to take effect on Monday, January 31, 2022, we request that you inform us by **8:00 a.m.** Eastern time tomorrow whether Coinbase will agree to withdraw its proposed changes to the User Agreement as it concerns dispute resolution (including but not limited to Appendix 5 of the Proposed User Agreement) until Judge Engelmayer can rule on our motion for a preliminary injunction. In the event you do not so consent, we intend to move the Court for a temporary restraining order at **9:00 a.m.** Eastern time tomorrow that would enjoin Coinbase from seeking to modify the User Agreement’s provisions concerning dispute resolution, until such time as Judge Engelmayer can rule on our motion for a preliminary injunction.

Regards,

Jordan

**Jordan Goldstein**

Partner and General Counsel

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